



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

FEB 14 2017

Mr. Mark Klotz, Director
Division of Water
New York State Department of
Environmental Conservation
625 Broadway
Albany, New York 12233-5010

**Re: State Fiscal Year 2016-2017 Clean Water Act Section 604(b) Mid-Year Grant
Reporting and Oversight Group Report
Grant Number: C698209316**

Dear Mr. Klotz:

Thank you for the New York State Department of Environmental Conservation's (NYSDEC) October 31, 2016 Mid-Year Clean Water Act (CWA) 604(b) Grant Reporting and Oversight Group report for State Fiscal Year (SFY) 2016-2017 attached. The U.S. Environmental Protection Agency (EPA) agrees that NYSDEC has met some its SFY 2016-2017 commitments; however, others have fallen significantly behind schedule.

EPA commends NYSDEC for the September 7, 2016 publication of the proposed rulemaking for the reclassification of waters for the Lake Champlain drainage basin in the New York State Register. Once finalized, this rulemaking will result in the upgrade of the numerous segments in these drainage basins from Class D, which provide protection for fish survival, to higher classifications which are protective of both fish survival and fish propagation. As a result, the designated uses for the above-referenced segments will be fully consistent with the CWA Section 101(a)(2) goals. However, EPA continues to be concerned that the remainder of the water quality standards (WQS) commitments will once again not be met.

NYSDEC last completed a triennial WQS review/revision in February 2008. The current WQS triennial rulemaking was originally scheduled to be public noticed by March 31, 2014, it now appears that this rulemaking may not be completed until the SFY 2017-2018 – a delay of over three years. EPA urges NYSDEC to make every effort to public notice the rulemaking by the end of Federal Fiscal Year 2017 (September 30, 2017). EPA understands that even once the triennial rulemaking is proposed, there is no certainty as to when the rule will be adopted as final and submitted to EPA for action. This makes it even more imperative for NYSDEC to issue the proposed rulemaking by September 30, 2017. In addition, the proposed rulemaking for the reclassification of waters for the St. Lawrence River drainage basin was also scheduled to be initiated in September 2017. However, this important proposal has not yet been published.

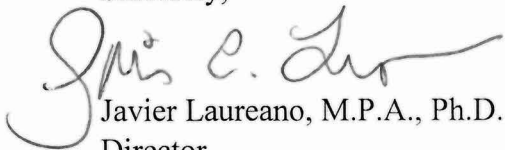
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Finally, EPA disagrees with New York State's decision to further delay the establishment of numeric nutrient criteria. The development and proposal for public comment of nutrient criteria for rivers (to protect aquatic life) and for lakes (to protect human health and recreation use) was originally scheduled for public notice on February 28, 2014. In addition to nutrient criteria for rivers and lakes, the adoption of marine numeric nutrient criteria is a key component in being able to effectively address the ongoing nutrient concerns in coastal and estuarine waters. In summary, NYSDEC should make every effort to complete the water quality standards commitments as expeditiously as possible. EPA will continue to work with NYSDEC to complete these efforts in as timely a manner as possible.

If you have any questions, please feel free to contact me at (212) 637-4125 or have your staff contact Martha Isaac, EPA's CWA 604(b) Project Officer, at (212) 637-3761.

Sincerely,

A handwritten signature in dark ink, appearing to read "Javier C. Laureano", with a stylized flourish at the end.

Javier Laureano, M.P.A., Ph.D.

Director

Clean Water Division

Enclosure